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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,761	12/13/2000	Cha-Mei Tang	40797	4832

7590

02/18/2003

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EXAMINER

CHURCH, CRAIG E

ART UNIT

PAPER NUMBER

2882

DATE MAILED: 02/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 2, 6-26, 43-45, 70-72 is/are pending in the application.
- Of the above claim(s) 37-42, 46-69, 73-75 is/are withdrawn from consideration.
- ☒ Claim(s) 1, 2, 6-26, 72 is/are allowed.
- ☒ Claim(s) 27-36, 43-45, 70 is/are rejected.
- ☒ Claim(s) 71 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

Claims 73-75 are included in Group II of the previous restriction requirement since they depend from claims 37, 46 and 54 respectively. It is noted that applicant's traversal of the requirement does not assert that the two groups of claims are directed to the same invention, this being the principle criteria for a restriction requirement, but rather only that it is untimely and that to examine all claims would not be a burden.

Contrary to applicant's belief that the requirement was not timely and was not made prior to the first action on the merits, said requirement was, in fact, made prior to the first action on the merits (which happens to be this action) *in this application* which happens to be an RCE case. That the requirement was not made in the parent application is not germane.

Examination of 75 claims is always a burden, and especially so when they are directed to distinct inventions. At any rate, it is the examiner's province to assess the amount of burden and not applicant's. The requirement is made FINAL.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention

was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 27-30 and 43-45 are rejected under 35 U.S.C. § 103 as being unpatentable over McGann et al (5263075) cited by applicant. McGann teaches an unfocussed x-ray grid formed of stacked lead layers 38 having round holes 40 therethrough placed along perpendicular intersecting lines (figure 7). The regions adjacent intersecting walls of McGann's grid correspond to applicant's "additional thickness".

Claims 31-36 are rejected under 35 U.S.C. § 103 as being unpatentable over Logan (5418833) cited by applicant. Logan teaches an x-ray grid having nonsquare apertures (figure 4), and lines 58-60 of column 1 explain that such grids are typically moved during imaging.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 70 is rejected under 35 U.S.C. § 102(e) as being

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anticipated by Sokolov. Figures 1 and 3 of Sokolov teach a focussed grid i with square apertures oriented about 45 degrees with respect to a direction of grid translation.

Claims 1, 2, 6-26 and 72 are allowed.

Claim 71 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Examiner Church at telephone number (703) 308-4861.

Craig E Church

CRAIG E. CHURCH
Senior Examiner
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